

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TAMI RANKINS,
Plaintiff,

v.

UNITED PARCEL SERVICE, INC.,
Defendant.

Case No. [3:23-cv-05785-JSC](#)

**ORDER RE: PLAINTIFF’S MOTION
TO REMAND**

Re: Dkt. No. 16

Tami Rankins sued United Parcel Service, Inc. (“UPS”) in California state court, alleging UPS engaged in systemic discrimination, harassment, and wage theft, in violation of California laws. (Dkt. No. 1-1 ¶ 1.)¹ UPS then removed this action to federal court, asserting diversity jurisdiction, 28 U.S.C. § 1332, and federal question jurisdiction, 28 U.S.C. § 1331. (Dkt. No. 1.) Now pending before the Court is Plaintiff’s motion to remand. (Dkt. No. 16.) Having carefully considered the briefing and determined oral argument is unnecessary, *see* N.D. Cal. Civ. L.R. 7-1(b), the Court DENIES Plaintiff’s motion. UPS has demonstrated complete diversity between the parties and that the amount in controversy is over \$75,000.

BACKGROUND

Plaintiff has worked at UPS for over 32 years. (Dkt. No. 1-1 ¶ 23.) She alleges “[f]or more than 5 years, two of her fellow employees have verbally assaulted and threatened her,” that this “abuse is still ongoing,” and “[m]anagement has failed to intervene.” (Dkt. No. 1-1 ¶ 24-25.) Plaintiff brings five claims against UPS: (1) disparate treatment in violation of public policy; (2) harassment based on gender and age, Cal. Gov. Code § 12940(j)-(k); (3) failure to prevent

¹ Record citations are to material in the Electronic Case File (“ECF”); pinpoint citations are to the ECF-generated page numbers at the top of the documents.

discrimination, Cal. Gov. Code § 12940 *et seq.*; (4) intentional infliction of emotional distress; and (5) breach of contract.

DISCUSSION

“For a federal court to exercise diversity jurisdiction under § 1332(a), the amount in controversy must exceed \$75,000, and the parties must be citizens of different states.” *Rainero v. Archon Corp.*, 844 F.3d 832, 839 (9th Cir. 2016) (quoting 28 U.S.C. § 1332(a)). Plaintiff asserts there is not complete diversity between the parties and there is no evidence the amount in controversy exceeds \$75,000.

UPS has established complete diversity between the parties. “The federal diversity jurisdiction statute provides that ‘a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.’” *Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010) (quoting 28 U.S.C. § 1332(c)(1)). “[P]rincipal place of business’ refers to the place where the corporation’s high level officers direct, control, and coordinate the corporation’s activities.” *Id.* Plaintiff is a citizen of California for diversity purposes. (Dkt. No. 1-1 ¶ 10.) UPS is incorporated in Ohio. (Dkt. No. 1 ¶ 13.) UPS’s “principal place of business” is in Georgia. (Dkt. No. 19 at 4.)² *See also Kisman v. United Parcel Serv., Inc.*, No. 221CV03164ABEX, 2021 WL 5016903, at *1 (C.D. Cal. Aug. 13, 2021), *motion to certify appeal denied sub nom. Kisman v. United States Parcel Serv., Inc.*, No. 221CV03164ABEX, 2022 WL 20273625 (C.D. Cal. Feb. 10, 2022) (“Defendant UPS is incorporated in Ohio and has its principal place of business in Atlanta, Georgia.”); *Argyris v. United Parcel Serv., Inc.*, No. CV0902306DDPRZX, 2009 WL 1652911, at *2 (C.D. Cal. June 11, 2009) (same). So, the parties are completely diverse.

Defendant has also established the amount in controversy is over \$75,000. Plaintiff does not seek a specific dollar amount in damages in her complaint. “Where it is not facially evident from the complaint that more than \$75,000 is in controversy, the removing party must prove, by a preponderance of the evidence, that the amount in controversy meets the jurisdictional threshold.”

² While Plaintiff also names Does in the complaint, the citizenship of those “Doe” Defendants “shall be disregarded.” 28 U.S.C.A. § 1441 (b)(1).

1 *Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770, 774 (9th Cir. 2017) (quoting *Matheson v.*
 2 *Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003). UPS, the removing party,
 3 asserts in its notice of removal the amount of controversy is well over \$75,000. UPS explains
 4 Plaintiff’s emotional distress claim, (Dkt. No. 1-1 § VII ¶ 1), puts at least \$75,000 in controversy
 5 because “past awards for emotional distress in discrimination and wrongful termination cases have
 6 easily exceeded \$75,000.” (Dkt. No. 1 ¶ 21 (collecting cases awarding over \$75,000 in damages
 7 for emotional distress in discrimination and wrongful termination.)) Plaintiff also seeks an award
 8 of attorneys’ fees, (Dkt. No. 1-1 § VII ¶ 4), and “where an underlying statute authorizes an award
 9 of attorneys’ fees, either with mandatory or discretionary language, such fees may be included in
 10 the amount in controversy.” *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998).
 11 The California Fair Employment and Housing Act (“FEHA”), Cal. Gov. Code § 12900 *et seq.*,
 12 authorizes attorneys’ fees for suits alleging employment discrimination and harassment, such as
 13 this one. Cal. Gov. Code § 12965(b). So, Plaintiff’s request for attorneys’ fees is properly
 14 considered under the amount in controversy. UPS has demonstrated an attorneys’ fee award can
 15 exceed \$75,000 in employment cases. (Dkt. No. 1 ¶ 23.) Finally, Plaintiff seeks punitive
 16 damages, (Dkt. No. 1-1 § VII ¶ 3), which UPS has established can exceed \$75,000 in a wrongful
 17 termination case. (Dkt. No. 1 ¶ 24 (collecting cases awarding over \$75,000 in punitive damages in
 18 alleged wrongful termination cases).

19 Plaintiff’s complaint allegations, on their face, also demonstrate the amount in controversy
 20 is more likely than not \$75,000. Plaintiff alleges her fellow employees have “verbally assaulted
 21 and threatened her” for “more than 5 years.” (Dkt. No. 1-1 ¶ 25.) As a result, Plaintiff pleads she
 22 “has suffered personal financial harm, including loss of earnings, humiliation, embarrassment, and
 23 mental and physical anguish and other employment benefits.” (*Id.* ¶ 58.) Further, Plaintiff asserts
 24 UPS “discriminated and retaliated against Plaintiff in violation of California law by engaging in
 25 and permitting acts that created a hostile work environment.” (*Id.* ¶ 83.) Because of UPS’s action,
 26 Plaintiff states she “suffered deterioration of health; loss of job; and the loss of salary, wages,
 27 bonuses, and benefits” (*Id.* ¶ 97.) These allegations, if proven, likely result in compensatory
 28 damages of over \$75,000—not to mention the punitive damages and attorneys’ fees discussed

1 above.

2 Plaintiff argues her complaint “does not exceed \$75,000 on its face,” citing *Tenderloin*
3 *Neighborhood Dev. Corp. v. Jones*, 23-cv-04329-LJC, at *2 (N.D. Cal. Sep. 8, 2023), which was
4 partially adopted in *Tenderloin Neighborhood Dev. Corp. v. Jones*, No. 4:23-CV-04329-YGR,
5 2023 WL 6631716, at *1 (N.D. Cal. Oct. 10, 2023). (Dkt. No. 16 at 8.) But in *Tenderloin*, there
6 was only one state law claim for unlawful detainer, and the plaintiffs only sought \$25,000 in
7 damages according to their own complaint. *Tenderloin*, 23-cv-04329-LJC, at *2. In contrast,
8 Plaintiff brings five claims and has not stated she is limiting her request for damages to \$75,000 or
9 less.

10 Because Defendant has established diversity jurisdiction, the Court does not reach the issue
11 of federal question jurisdiction.

12 CONCLUSION

13 For the reasons stated, Plaintiff’s motion to remand is DENIED. Plaintiff’s request for
14 attorney’s fees and costs is also DENIED, as Plaintiff’s motion was denied. *See* 28 U.S.C.A. §
15 1447 (authorizing payment of “just costs and any actual expenses” but only if Plaintiff achieves
16 “[a]n order remanding the case”).

17 This Order disposes of Docket Number: 16.

18 **IT IS SO ORDERED.**

19 Dated: December 22, 2023

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22 JACQUELINE SCOTT CORLEY
23 United States District Judge
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